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ABSTRACT

Chosen on the basis of geographic location, population, economic status, and land base size, 10 American Indian reservations received a 5-day training session and a 3-day follow-up session re: juvenile law as it pertains to child abuse and neglect. An American Indian Law Center staff attorney assisted by a law student conducted the training sessions which involved a combination of pre- and post-testing, lecture and discussion, slide presentations, extensive role playing, and use of a manual based on the Model Children's Code. The final day of the training session was devoted to instruction geared to the results of the post-test given on the fourth day. Each group was invited to decide the type of technical assistance the follow-up session would provide. Follow-up results varied from groups on the Rocky Boy's, Warm Springs, and Standing Rock reservations opting to write the first draft of a new juvenile code for their tribes to Fort Berthold's initiation of a new group called the Family Service Team whose objectives included providing counseling to children and parents on family problems, assisting police and social welfare personnel in securing crisis shelter placement, providing educational services, reporting suspected abuse and neglect, and preparing a resource directory. Evaluation of the training sessions suggested the 5 days should be changed to 3, the role playing was invaluable, the follow-up requires 2 trainers, and there should be additional training geared to specific groups (e.g., judges). (JC)

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FINAL REPORT

TRAINING AND TECHNICAL ASSISTANCE TO DEVELOP, REVISE AND SUPPLEMENT INDIAN
TRIBAL CODES AND COURT PROCEDURES ON CHILD ABUSE AND NEGLECT

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U.S. DEPARTMENT OF HEALTH,
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AMERICAN INDIAN LAW CENTER

School of Law

July 1, 1977

*University of New Mexico
Albuquerque, New Mexico*

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I. INTRODUCTION

The American Indian Law Center is located at the University of New Mexico School of Law in Albuquerque. The Law Center is national in scope and provides a broad range of services, primarily research and training, to Indian tribal governments and Indian organizations.

In early 1975, the Law Center implemented a two year project entitled the Project for the Prevention and Control of Juvenile Delinquency Among American Indians. This project sparked a special interest for the Law Center in juvenile law and later projects emanated from this initial juvenile project. The current project was designed to provide training and technical assistance to tribal personnel on ten Indian reservations in the area of tribal code and court procedures on child abuse and neglect.

The area of Indian juvenile law is very complex. With the exception of a few reservations, tribes have jurisdiction over all civil and criminal matters and have tribal judicial systems to administer justice. (However, serious crimes committed on Indian reservations such as murder and rape, came under federal jurisdiction with the passage of the Major Crimes Act by Congress in 1885.) Because tribes are not considered states, the U.S. Constitution does not apply on Indian reservations. In 1968, Congress passed the Indian Civil Rights Act. The language of the Indian Civil Rights Act closely parallels the U.S. Bill of Rights and guarantees to reservation Indian individuals many of the rights in relation to tribal authorities that the U.S. Constitution guarantees to all persons in relation to federal and state governments. Although individual rights are now guaranteed by federal law, no court has ever held that Indian juveniles are protected by the Indian Civil Rights Act when they become involved in the tribal judicial system. It is the position of the Law Center that if and when an Indian juvenile case is brought under the Indian Civil Rights Act,

the court will hold that juveniles have the same rights now guaranteed to any reservation adult individual. This conclusion is based on the fact that the Indian Civil Rights Act language parallels the language of the U.S. Constitution and the fact that since 1965, juveniles have been granted civil rights under the Constitution in state courts.

Given the recent developments in juvenile law and the potential of the project to affect future developments, ten representative reservations were selected to participate in this project. They were selected on the basis of geographic location, population, economic status, judicial status, and land base size. The reservations selected were Fort Berthold, North Dakota; Standing Rock, North and South Dakota; Blackfeet, Montana; Rocky Boy's, Montana; Quinault, Washington; Warm Springs, Oregon; Gila River, Arizona; Papago, Arizona; Laguna Pueblo, New Mexico; and Choctaw, Mississippi. On each reservation, tribal personnel who worked with children in any capacity were invited to attend the training sessions.

In order to adequately cover the amount and complexity of the material it was decided that five days would be the most appropriate length for each session. The basic instructional tool used in the training sessions was The Model Children's Code, published by the American Indian Law Center. The Model Code was written with the cooperation of the National American Indian Court Judges Association and contains tribal code standards and explanatory commentary written for laymen. Using the Model Children's Code as a guide, American Indian Law Center staff members and curriculum specialists prepared a manual which contained the Model Children's Code and other specially designed instructional materials. All participants in the training sessions received a copy of the manual. A more extensive manual was also prepared for the instructors which contained additional material on juvenile and Indian law and instructional aides,

such as role playing skits. In addition, visual aides for instructional purposes, such as slide presentations and charts were developed. The entire format of the training session was designed to convey complex legal material in a manner that would be informative, interesting, and enjoyable.

The project served the dual purpose of training people in current juvenile law and of providing tribes with the impetus to enact legislation that will comply with the law regarding tribal jurisdiction without jeopardizing Indian values and traditions.

II. TRAINING SESSIONS

A five day training session was held on each of the ten reservations. An American Indian Law Center staff attorney conducted each training session. The staff attorney was responsible for covering the sessions on Indian law and his assistant, an Indian law student, conducted the juvenile law sessions.

The sessions began with an introductory session and a pre-test designed to measure each participants knowledge of legal terminology and concepts. Following the pre-test, a slide presentation and a role playing skit were used to encourage interaction between the instructors and participants, and to introduce the instructional materials.

The second day consisted of a four hour lecture on Indian law. Subject matter covered included jurisdiction of Indian tribes over criminal and juvenile matters; the relationship between federal, state and tribal jurisdiction; juvenile rights in tribal court under the Indian Civil Rights Act; and a review of cases regarding the rights of Indian parents in state courts. Instruction on the procedures in the Model Children's Code followed the lecture on Indian law. This session emphasized legal definitions, analysis of legislation, and jurisdiction of juvenile courts including the power to transfer juvenile cases to adult court.

Using case law as examples, the lecture on the third day outlined the development of the rights of juveniles in state courts under the U.S. Constitution. The participants then took part in another role playing skit to reinforce the concepts introduced during the lecture. During the afternoon, the instructors presented the procedures that Indian tribal courts should use to ensure proper adjudication of child abuse and neglect cases. Special emphasis was placed on compliance with the Indian Civil Rights Act, incorporation of state juvenile rights if desirable, and sensitivity to preserving Indian values and traditions within the judicial system.

Procedures for termination of parental rights were presented on the fourth day. Following the lecture, a post-test was administered. The post-test was the same test given at the beginning of the training session but this time the purpose was to measure whether the training session had increased each participant's understanding of the legal concepts and terminology. In the afternoon, while the law student assessed the results of the tests, a final role playing session concentrated on problem solving situations.

On the morning of the last day, the instructors reviewed the instructional material and emphasized those areas which the tests indicated needed further explanation or clarification. A general discussion period wrapped up the training session. Plans were made at this time for the follow-up technical assistance session.

III. FOLLOW-UP TECHNICAL ASSISTANCE SESSIONS

During the initial training session, each group of participants was informed that the staff attorney would be available for three days of follow-up technical assistance to the tribe. Each group was invited to decide the type of technical assistance the follow-up session would provide within the parameters of child abuse and neglect.

The groups on the Rocky Boy's, Warm Springs, and Standing Rock Reservations opted to write the first draft of a new juvenile code for their tribe. The follow-up sessions on each of these reservations were conducted in the same manner. Representatives from each local agency that worked with families and children, the tribal court, and the law and order department were invited to participate. Parents and children were also encouraged to attend, but this did not meet with great success which may have been due to poor communication efforts. During the three days each "committee" drafted a new code using the existing tribal juvenile code and the Model Children's Code as examples. Each committee also presented the draft to the proper governmental body authorized by the tribal constitution for revision and processing. Each committee also developed a lobbying process.

Since the Gila River Reservation's attorney was in the process of preparing a new juvenile code, the follow-up session was spent assisting the attorney with this effort. The new code was presented on the third day to the Tribal Council's Legislative Committee for further action.

On the Quinault Reservation, the tribal attorneys had recently written a new juvenile code. The Law Center staff attorney provided technical assistance by reviewing and offering advise on revising the new code and by conducting public and private meetings to explain the code, its procedures and impact on Quinault's existing judicial system.

Fort Berthold requested and received for its follow-up session additional instruction on Indian and juvenile law and assistance with the formation of a new group called the Family Service Team. The members of the new group represent each of the five districts on the reservation. The Team developed the following objectives: 1) to provide counseling to children and parents on family problems, such as child abuse and neglect, 2) to assist police officers and social welfare

personnel in securing placement in crisis shelters, 3) to report suspected abuse and neglect cases for possible investigation, 4) to provide educational services on juvenile matters to the public, and 5) to prepare a resource directory on services available to children and families.

The five day training session on the Mississippi Choctaw Reservation had to be cancelled after the first day because of inclement weather. As a result, the three days allocated for technical assistance were used to complete the training session.

During the follow-up session on the Blackfeet Reservation, a resource directory of all agencies, organizations, schools, and individuals that provide services of benefit to children was written. The response to requests for representatives of organizations to attend the session and write a description of their organization and services was overwhelming. By the end of the session, an extensive directory had not only been written but also typed, duplicated and distributed to offices, families and individuals throughout the reservation. A special meeting held with local high school students produced a second accomplishment during the three day follow-up session. The students suggested and prepared, with the assistance of the juvenile court judge, a wallet size card outlining juvenile rights in tribal juvenile court. The high school's counselor agreed to pay the printing costs and the cards were printed at a local printing company. The cards were distributed to every high school and junior high school student on the reservation. Plans were also made to print another card which would list telephone numbers of agencies that provide assistance such as educational benefits and birth control advice, to young people. In addition to the cards, the students also prepared informational posters on juvenile rights in tribal courts and posted them in the schools and other public buildings.

On the Papago Reservation, technical assistance consisted of several meetings. The meeting with social service personnel discussed tribal court procedures and the role of Social Service personnel in the judicial system and community. The tribal judges and court personnel met to discuss codes and procedures. A presentation on juvenile law was made to the tribal council. An afternoon was spent working with the Bureau of Indian Affairs Social Services Department and the tribal court on proper commitment orders to the local youth home.

The technical assistance on the Laguna Pueblo also consisted of several meetings. The purpose of the meetings was to ensure that each participating group understood court procedures and its role within the tribal judicial system. Meetings were held with teachers, juvenile and probation officers, social service workers, tribal judges and tribal court personnel.

IV. FUTURE

The training sessions and follow-up technical assistance were valuable experiences for everyone who participated in the project. People felt at ease to make suggestions on improving the project and offered ideas for future projects.

First, training sessions for a similar project should not exceed three days. Although a shorter training period would mean eliminating some of the instructional material, more people would be able to attend. It was very difficult for most participants to leave their responsibilities for an entire week even for training they needed and desired. Most reservations do not have sufficient back-up staff to perform the duties of those attending a week-long training session.

Second, the project staff found the role playing skits were invaluable because they fostered interaction between the instructor and participants.

Other aides, such as the slide presentations and charts not only expanded the understanding of the material but made the sessions more enjoyable for the participants.

Third, the follow-up technical assistance session should be handled by two people, preferably a lawyer and a law student. When the project was originally designed, it was not foreseen how physically demanding the follow-up session would be on one person. It is conceivable that the end product could have been better if two people had shared the effort.

The participants made recommendations for other types of projects which should be considered because they are most familiar with the juvenile situation on the reservation. The participants would like to have additional training specifically designed for particular groups of people including tribal judges, court clerks, law enforcement officers, probation officers, social welfare workers, health officials, and teachers. The Law Center vigorously supports the practice of conducting any future training on the reservations to ensure maximum participation by tribal personnel. The training format for this project was effective and can be used to plan similar sessions on reservations. However, if this approach is not always feasible, instructional presentations modeled after correspondence courses would also be effective.

Training courses for specific areas of the law should also be prepared. The participants stressed the immediate need for training in the areas of adoption, custody, juvenile facility administration, and child support enforcement.

Tribes particularly need technical assistance in Indian juvenile law. Presently, there are few attorneys and organizations specializing in this area. Tribes need assistance in drafting and revising juvenile codes, preparing

proposals for juvenile programs, planning and implementing juvenile programs such as diversion programs, designing and implementing juvenile facilities, and developing youth service bureaus to coordinate existing efforts.